

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

EDEN ROGERS and

BRANDY WELCH,

Plaintiffs,

-against-

UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES;

ALEX AZAR, in his official capacity as Secretary
of the UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;

ADMINISTRATION FOR CHILDREN AND
FAMILIES;

LYNN JOHNSON, in her official capacity as
Assistant Secretary of the ADMINISTRATION
FOR CHILDREN AND FAMILIES;

SCOTT LEKAN, in his official capacity as
Principal Deputy Assistant Secretary of the
ADMINISTRATION FOR CHILDREN AND
FAMILIES;

HENRY MCMASTER, in his official capacity as
Governor of the STATE OF SOUTH CAROLINA;
and

MICHAEL LEACH, in his official capacity as State
Director of the SOUTH CAROLINA
DEPARTMENT OF SOCIAL SERVICES,

Defendants.

Case No. 6:19-cv-01567-TMC

JOINT STATUS REPORT

Pursuant to the Court's order dated October 27, 2020 (ECF No. 112), the parties submit the following joint status report concerning their efforts to resolve the discovery disputes raised in Plaintiffs' Motion to Compel Discovery that was filed on October 5, 2020.

The parties have been working diligently and have made substantial progress. They have met and conferred twice since receiving the Court's Order and have exchanged numerous letters and emails. Counsel for Defendant Henry McMaster and Defendant Leach initially provided a list of the search terms they had used to search for responsive documents and a description of the process they used to search for responsive documents. Counsel for Plaintiffs provided comments and follow-up requests for modifying those searches and also raised issues with respect to some of Defendants' objections to Plaintiffs' Requests for Production ("RFPs") and Plaintiffs' Interrogatories and Requests for Admission ("RFAs").

More recently, in the last few days, Counsel for Defendants McMaster and Leach have each provided letters indicating that, as part of an overall agreement to resolve all outstanding discovery disputes, although they continue to assert the validity of their prior objections, in the interest of moving the litigation forward they will agree to virtually all of Plaintiffs' comments and follow-up requests and will run additional document searches and provide additional Interrogatory and RFA responses. Although it may take a few days to finalize the details, the parties are optimistic that they will soon have an agreement resolving all of the issues raised by Plaintiffs' Motion to Compel.

In light of, among other things, the time it has taken to resolve these issues and the fact that Defendants' document production efforts are ongoing, Plaintiffs asked

all defendants to agree to a 90-day extension of the case schedule. The Federal Defendants have indicated that, although they decline to join a motion requesting an extension, they do not oppose the extension. Defendants McMaster and Leach have each said that they oppose the extension. They contend that an extension is unnecessary in light of the fact that the pending discovery disputes have been (or very soon will be) resolved, and because there are still nearly 80 days left for discovery (and longer still for other case events) under the current schedule, which has already been extended once. Defendants McMaster and Leach contend further extensions are, at least at present, unnecessary. Plaintiffs maintain that because Plaintiffs still lack a complete record from Defendants, there is not enough time to review the documents that are forthcoming from State Defendants, conduct depositions, identify experts or provide expert reports consistent with the deadlines in the case schedule. Additionally, the scope of discovery from Federal Defendants remains uncertain in light of the pending motion for a protective order, and Plaintiffs continue to negotiate Miracle Hill Ministries' response to Plaintiffs' subpoena. Plaintiffs intend file a motion seeking a 90-day extension of the case schedule tomorrow.

November 24, 2020

/s/ Susan K. Dunn

Susan K. Dunn (Federal Bar No. 647)
AMERICAN CIVIL LIBERTIES UNION
OF SOUTH CAROLINA FOUNDATION
P.O. Box 20998
Charleston, SC 29413
(843) 282-7953
sdunn@aclusc.org

South Carolina Equality Coalition, Inc.
Nekki Shutt (Federal Bar No. 6530)
M. Malissa Burnette (Federal Bar No. 1616)
BURNETTE SHUTT & MCDANIEL, PA
912 Lady Street, 2nd floor
P.O. Box 1929
Columbia, SC 29202
(803) 850-0912
mburnette@burnetteshutt.law
nshutt@burnetteshutt.law

Peter T. Barbur (admitted *pro hac vice*)
CRAVATH, SWAINE & MOORE LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019
(212) 474-1000
pbarbur@cravath.com

Leslie Cooper (admitted *pro hac vice*)
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2633
lcooper@aclu.org

Daniel Mach (admitted *pro hac vice*)
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
915 15th Street NW
Washington, DC 20005
(202) 675-2330
dmach@aclu.org

M. Currey Cook (admitted *pro hac vice*)
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
120 Wall Street, 19th Floor
New York, NY 10005
(212) 809-8585
ccook@lambdalegal.org
ccohen@lambdalegal.org

Karen L. Loewy (admitted *pro hac vice*)
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
1776 K Street NW, 8th Floor
Washington, DC 20006-2304
(202) 804-6245
kloewy@lambdalegal.org

Attorneys for Plaintiffs

NELSON MULLINS RILEY &
SCARBOROUGH LLP

/s/ Miles E. Coleman

MILES E. COLEMAN

Miles E. Coleman
Federal Bar No. 11594
E-Mail: miles.coleman@nelsonmullins.com
104 S. Main Street, 9th Floor
Greenville, SC 29201
(864) 373-2352

Jay T. Thompson
Federal Bar No. 09846
E-Mail: jay.thompson@nelsonmullins.com
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

OFFICE OF THE ATTORNEY GENERAL

Robert D. Cook
South Carolina Solicitor General
Federal Bar No. 285
E-Mail: bcook@scag.gov
Post Office Box 11549
Columbia, SC 29211
(803) 734-3970

Attorneys for Governor Henry McMaster

DAVIDSON, WREN & PLYLER P.A.

/s/ Kenneth P. Woodington

KENNETH P. WOODINGTON

WILLIAM H. DAVIDSON, II, #425
KENNETH P. WOODINGTON, #4741
1611 Devonshire Drive, 2nd Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568
wdavidson@dml-law.com
kwoodington@dml-law.com
T: 803-806-8222
F: 803-806-8855

Attorneys for Defendant Michael Leach